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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

19 CR 833 (SHS)

5 ANTHONY CHEEDIE,

6 Defendant.

7 -----x

8 New York, N.Y.

9 July 15, 2020

3:40 p.m.

10 Before:

11 HON. SIDNEY H. STEIN,

12 District Judge

13 APPEARANCES

14 AUDREY STRAUSS

15 Acting United States Attorney for the
Southern District of New York

16 BENET KEARNEY

Assistant United States Attorney

17 FREDERICK LAWRENCE SOSINSKY

18 ANASTASIOS SARIKAS

Attorneys for Defendant

20 ALSO PRESENT:

21 MOHAMMED AHMED, Pretrial Services (By Speakerphone)

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(Case called)

MS. KEARNEY: Good afternoon, your Honor. Benet Kearney, for the United States.

MR. SOSINSKY: For Mr. Cheedie, Fred Sosinsky, and I am joined by my colleague, Anastasios Sarikas, as well.

MR. SARIKAS: Good afternoon.

THE COURT: Good afternoon.

Mr. Cheedie is present; is that correct?

MR. SOSINSKY: Yes, Judge, standing between us.

THE DEPUTY CLERK: And Mr. Ahmed?

MR. AHMED: Yes.

THE COURT: Make your appearance, sir. You're Mr. Ahmed from pretrial services, correct?

MR. AHMED: Good afternoon, Judge. Mohammed Ahmed, on behalf of pretrial services.

THE COURT: Good afternoon.

Good afternoon, everyone. These are strange days. Everybody in the courtroom is masked. I just took my mask off, there's nobody near me, and it's easier to speak, but I appreciate everyone being here.

There are two purposes for our conference today. One is to act on the request for a bail review by pretrial services, and Mr. Ahmed could not make it in, and I appreciate his being on the phone. And I take this as a very serious issue. There are a number of people in the courtroom who I

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1 take it are here in support of Mr. Cheedie, in addition to the
2 lawyers, and the court reporter, and my clerks, and my deputy.

3 The second is to have a Curcio hearing to see if
4 Mr. Cheedie understands the potential conflict or not, and I
5 will explain that.

6 But I'm going to start with the request for a bail
7 review.

8 Now, Mr. Cheedie -- and I will hear from either of the
9 lawyers or both of the lawyers.

10 Mr. Cheedie, perhaps you were misled by the fact that
11 I believe all of the defendants in this case are not
12 incarcerated; in other words, no one has been incarcerated.

13 Is that right, Ms. Kearney?

14 MS. KEARNEY: That's correct. No one is incarcerated,
15 that's correct.

16 THE COURT: So maybe you thought in these cases,
17 people just aren't incarcerated. You're wrong. That's point
18 one.

19 Point two is, things like this, normally I give people
20 one strike, I think that that's appropriate, and now you have
21 two strikes. And at the end of my presentation, I'm going to
22 ask you -- first your lawyer, if he wants to speak -- if you
23 can give me a single reason why you shouldn't be incarcerated.
24 I'm sure your lawyer will come up with a number.

25 You seem to have a problem -- and, again, I'll let you

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1 speak. I'm just giving you my view after having read these
2 papers. The problem with the problem -- that is, your problem
3 is with alcohol. The problem with the problem is that you're
4 putting other people at risk. I certainly would have no
5 interest in you hurting yourself while driving drunk or under
6 the influence of alcohol -- I certainly don't want that to
7 happen -- but I have a responsibility to make sure it doesn't
8 happen to other people, and you're putting them at risk, and
9 have twice or have at least twice. I don't want to incarcerate
10 you, especially in this time of COVID. I've been dealing each
11 day with a number of requests for compassionate release. This
12 is my first day in the courthouse in quite a while. I do it
13 while working remotely, because, not surprisingly, those who
14 are incarcerated would rather be anywhere else than
15 incarcerated. That makes sense, people are rational, but
16 especially at this time, where if you get COVID in a jail,
17 under pretrial detention, it makes it even worse.

18 So, here, I have a strong incentive not to incarcerate
19 you. And you have no history of violence or anything like
20 that -- you're not going to flee, that's not an issue -- but
21 what is at issue is the possibility, or likelihood, or
22 potential for you to kill somebody in a car who's not yourself.
23 It happens all the time. And you were given one strike.

24 Here's the information I think I know:

25 Back in November of last year, you were arrested on

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1 these charges, conspiracy to commit wire fraud, and, as I think
2 you know, I told you I'm quite familiar with the general
3 complex of fraudsters here because I have presided over a trial
4 in a related matter that's now over. You weren't incarcerated,
5 you were let out on bail, and still are. And shortly
6 thereafter, in February of this year, you were arrested in
7 Little Falls for driving while intoxicated, refusing to
8 cooperate, reckless driving, leaving the scene, no insurance,
9 no seatbelt. It doesn't make any sense at all, I mean, for
10 somebody to do that. It doesn't make any sense for somebody to
11 drive while intoxicated. It doesn't make any sense for
12 somebody to refuse the assistance of law enforcement. It
13 doesn't make any sense, unless you're under the influence of
14 alcohol, to leave the scene. It certainly doesn't make any
15 sense, whether you have been drinking or not, to have no
16 insurance while driving and not to be using a seatbelt. Those
17 are the accusations, as I remember.

18 Pretrial let me know about that. They also said they
19 didn't think any action was needed by me, except that you were
20 going to go to outpatient alcohol treatment. That made sense.
21 You know, we don't come down hard on somebody when they've,
22 quote, made a mistake, end quote, although I could have
23 incarcerated you at that time. You then asked, as it were, a
24 favor or special attention, a special action by the Court,
25 which, again, I was pleased, happy, to give you; you were going

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1 to go to Sharon, Connecticut, I think, to be with your inlaws,
2 and then I extended, so you were there for one month. Again,
3 happy to do it, it made sense.

4 While there, you were arrested by the Sharon police.
5 Your car had been damaged. You were under the influence to
6 some extent with alcohol, presumably. You had been in the
7 hit-and-run accident; they found that out pretty quickly. It
8 didn't take a genius to know that the car was damaged, and the
9 hit-and-run had been called in, or was about to be called in.
10 According to the police report, you were slow in your speech,
11 you were confused, you gave conflicting answers as to what you
12 were doing. Apparently, you said you were getting parts for
13 your pool, you were getting dinner for your wife. You were
14 charged with operating under the influence, you refused to
15 leave the car, you seemed to give the police a hard time.

16 I need to protect the public. I'll ask you a
17 rhetorical question, because you should talk to your lawyer
18 before saying anything -- anything you say can be used against
19 you -- but the rhetorical question is, why shouldn't I revoke
20 your bail?

21 Mr. Sosinsky, what would you like to say?

22 MR. SOSINSKY: Thank you, your Honor.

23 Would you like me to wear the mask, or may I --

24 THE COURT: I guess that's up to Ms. Kearney, who's
25 sitting in front of you.

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1 MR. SOSINSKY: I'm happy to move back and keep my
2 voice up, if I could.

3 MS. KEARNEY: I have the antibodies.

4 MR. SOSINSKY: She has the antibodies.

5 THE COURT: We don't know what that means, sir. We
6 don't know what that means. And I just read an article that
7 they have found that these antibodies of COVID have a
8 surprisingly short half-life. Since I don't know what that
9 means either, I'm okay. Why don't you go over there.

10 MR. SOSINSKY: Judge, what you may not know -- I
11 suppose you wouldn't know -- is that following the first of the
12 two incidents that your Honor made mention of, Mr. Cheedie, not
13 at my urging, really, but at his own, looked into and had made
14 arrangements to enter into an extended drug and alcohol
15 rehabilitation in-person program in Pennsylvania, and we were
16 preparing to ask the Court about it literally as the COVID
17 shutdown began.

18 I mention that -- you have the name, in fact.
19 Mohammed, of pretrial services, and I both spoke, and I emailed
20 him information. And I think everyone was in agreement at that
21 time that he very much needed inpatient alcohol treatment, if
22 ever he was to be able to understand the underpinnings of what
23 drives him to drinking, which, as the Court, I think,
24 suggested, was really not the issue -- it's certainly not the
25 issue for the Court -- but it's the combination of then getting

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1 into a vehicle and endangering the rest of us, whatever he
2 wants to do to himself, I understand that.

3 I'm mentioning it because that's where -- I had
4 prepared a letter, because it's out of state, so I would have
5 had to have the Court's permission to allow him to do so at the
6 beginning of March. They didn't have beds because they were
7 shutting down. It made no sense to make the request at that
8 point in time. And what Mr. Cheedie then did, from that point
9 until literally, I think, the day when these events transpired
10 up in Sharon, Massachusetts -- I think your Honor said
11 Connecticut, it's actually Massachusetts --

12 THE COURT: Sorry.

13 MR. SOSINSKY: -- is he was in therapy remotely --
14 because that's the only choice that anyone was given, given the
15 unfortunate circumstances that we all found ourselves in -- not
16 only with a therapist that he sought out, but also one that
17 Officer Ahmed had referred him to. He had started treatment
18 with one, told the therapist that they would need to be
19 providing regular updates to Mr. Ahmed. Apparently, that
20 program was not associated or affiliated, hadn't done work with
21 pretrial services, they were uneasy about how that would all
22 go, he found another one, and eventually he was twice a week,
23 over the phone, of course, or by videoconference, getting
24 counseling from two different sources, again, one of which was
25 selected or referred to him by Officer Ahmed.

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1 During that whole time -- that is, from the end of
2 February/beginning of March -- through when I got an
3 unfortunate phone call on June 26th, I think it was, from his
4 family, he and I had discussed the fact that he needed
5 inpatient alcohol treatment, although it was my
6 understanding -- and I think it's true -- that he actually
7 forbear from consuming alcohol during those months.

8 And, by the way, Judge, once I began occasionally to
9 come back to my office mid-/late April, Mr. Cheedie would come
10 into my suite, I would set him up in a conference room, and he
11 would go over the discovery, and then we would talk from a safe
12 distance with masks on. He was being, in my view, at least
13 during that time, responsible, also understanding that when
14 things opened up, he needed to be back -- or he needed to be,
15 finally, I should say, in residential alcohol treatment, not
16 because I said it, because that's where he needed to be for his
17 own sake, so that there wouldn't come a day like this one.

18 He needs desperately, Judge, to be in alcohol
19 treatment. It needs to be inpatient. I'm not saying this for
20 the purpose of avoiding --

21 THE COURT: Those programs shut down, is that what
22 you're telling me?

23 MR. SOSINSKY: Yes.

24 THE COURT: You're saying he needs inpatient, but you
25 can't get him into it?

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1 MR. SOSINSKY: We can now. In fact, your Honor should
2 know that when this issue arose -- and it's a serious one, I am
3 not minimizing, I hope your Honor understands, to any extent
4 what your Honor talked about before. I'm not.

5 THE COURT: Is inpatient available to him now?

6 MR. SOSINSKY: Yes, inpatient treatment at Geisinger,
7 which was -- I think it's outside Wilkes Barre, Pennsylvania,
8 the Scranton area, a program that I already provided back in
9 February or beginning of March to pretrial. As they had a bed
10 for him two weeks ago, we were debating whether to make an
11 application in the interim because your Honor had said --

12 THE COURT: What's the bottom line, are you seeking
13 his going into this program?

14 MR. SOSINSKY: I am seeking the Court's direction that
15 he must -- if you're going to allow him to be at liberty on
16 different conditions, of course, that he begins by having to be
17 in residential alcohol treatment with -- full details, they've
18 already been provided to Mr. Ahmed, but, yes, that he be there
19 with updates to be provided and that he be there. And that, I
20 think -- because alcohol sometimes is treated differently --

21 THE COURT: How long is the program?

22 MR. SOSINSKY: Well, they would have an initial
23 program of at least 30 to 60 days, and I think that either
24 there or through a referral, he would be referred to longer
25 term treatment. If this were a drug addiction, I think your

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1 Honor knows that those tend to be -- the inpatient programs
2 tend to be far longer than a month or two, they can run a year,
3 they can run 18 months --

4 THE COURT: Why are you telling me that? This isn't
5 drug inpatient.

6 MR. SOSINSKY: My point is I'm not sure, given what
7 we've seen and given what I know about alcohol addiction, given
8 the struggles that he has had, that longer inpatient treatment
9 should not be required or might not be required.

10 THE COURT: Mr. Ahmed, have you been able to hear this
11 discussion, sir? You're on the telephone.

12 MR. AHMED: Yes, your Honor, I can hear when your
13 Honor speaks clearly. Unfortunately, when defense counsel
14 speaks, I'm not making out everything that is being said.

15 THE COURT: All right. I can shorten it and give you
16 the essence of his lengthy speech -- I mean his remarks -- I'm
17 sorry, I don't mean to sound negative -- but they were fulsome.

18 The reduction of his remarks is: Mr. Cheedie needs
19 inpatient alcohol treatment, and he has located a facility in
20 Pennsylvania for a minimum of 30-day residential program, and
21 he is recommending that.

22 Do you know this program? And what are your thoughts
23 about that recommendation?

24 MR. AHMED: I do not know the program, although I have
25 heard of the program back in March from defense counsel and

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1 from Mr. Cheedie. If the treatment is deemed to be appropriate
2 after an intake, then we do not oppose him entering treatment.

3 THE COURT: When you say "deemed to be appropriate
4 after an intake," you do the intake or the program does the
5 intake?

6 MR. AHMED: No, your Honor. The program would do the
7 intake, and they would make an assessment to deem what the
8 appropriate level of treatment is.

9 THE COURT: All right. Just stay on the line, sir.
10 Who pays for this, Mr. Ahmed? Is this privately paid
11 for? Or I guess let me ask Mr. Sosinsky.

12 MR. SOSINSKY: Judge, this would be privately paid for
13 through insurance or his family, unfortunately, having to go
14 into whatever reserves they have.

15 THE COURT: Mr. Ahmed, what Mr. Sosinsky says is it
16 would be paid either through insurance or by the family.

17 MR. AHMED: Yes, it's my understanding that we would
18 only pay for our contracted providers, and that provider is not
19 a contracted provider with the courts.

20 MR. SOSINSKY: Judge, I had a lot more to say, just
21 for your Honor's consideration, separate and apart from the
22 program itself, because I think it's important that --

23 THE COURT: What do you want to tell me? Because I
24 think if he goes into a residential program and successfully
25 completes it, that would be very important for his sake and

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1 from the standpoint of my protecting the public.

2 MR. SOSINSKY: No doubt about that.

3 THE COURT: So, is there anything else you wanted to
4 tell me in light of that? In other words -- well, I want to
5 hear from the government, but I'd be inclined to not do what I
6 was intending to do -- let's let that be unsaid -- and,
7 instead, direct him to go into this program, and if he
8 successfully completes it, so much the better, and if he
9 doesn't, he will be back before me.

10 MR. SOSINSKY: Yes, he will, under very different
11 circumstances, certainly.

12 But, Judge, I just wanted you to be aware of the
13 following, because it may offer some degree of both comfort and
14 forecasting, after he completes the program, how things will
15 have changed. I'm not simply asking that your Honor direct
16 that he get into inpatient treatment because that will come to
17 an end at some point, as Officer Ahmed just indicated, whether
18 30, 60, 90, 120 days, and then the question is what then. We
19 have proposed -- and I had these discussions with Mr. Ahmed and
20 the government weeks ago -- that his conditions of release be
21 changed as well, such that when he is not -- when he finishes
22 this program, as you say, hopefully successfully, your Honor,
23 for a host of reasons, that he would be monitored
24 electronically and be on, I think, home detention, such that he
25 is not permitted to leave his parents' residence, where he's at

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1 right now rather than the apartment that he is giving up where
2 he used to reside in New Jersey, for the remainder of this case
3 except in the event that he successfully gets a new job. He's
4 certainly lost the job he had before the shutdown, in any
5 event, for medical or for legal reasons. In other words, that
6 there would be consequences above and beyond the program
7 completion, such that I think -- and your Honor should know,
8 the danger, the concern, would not be present except in the
9 most theoretical sense.

10 Your Honor, I have -- a day after he returned to
11 New York, when his family took him back from Massachusetts to
12 Brooklyn, to their home, I have had the family deliver to me
13 his driver's license, his New Jersey driver's license. I, as
14 an officer of the Court, have that driver's license.

15 I also have the only key that exists to that vehicle,
16 and the vehicle is not in the same place as Mr. Cheedie. The
17 vehicle is not in Brooklyn, he will have no access to that.

18 The reason I'm mentioning this, Judge, is I think the
19 danger that your Honor highlighted is the combination of
20 drinking and then getting behind the wheel of a car --

21 THE COURT: Right. I tend to believe that what he
22 needs most is treatment.

23 Government, what is your -- and I'd be satisfied with
24 that. What's your position on this?

25 MS. KEARNEY: Thank you, your Honor.

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1 I think Officer Ahmed knows a lot more about the
2 effectiveness of the various programs, but if we are in
3 agreement that this residential program has a high
4 effectiveness rate, which --

5 THE COURT: Has a what?

6 MS. KEARNEY: High effectiveness rate.

7 THE COURT: High effectiveness rate. Well, Mr. Ahmed
8 doesn't know.

9 MS. KEARNEY: Right, which I can't really speak to.

10 Look, your Honor highlighted the concerns that the
11 government has here. This is someone who --

12 THE COURT: Speak into the mic.

13 MS. KEARNEY: I apologize.

14 THE COURT: Mr. Ahmed, can you hear Ms. Kearney?

15 MR. AHMED: No, your Honor, I cannot.

16 THE COURT: Okay. What she's saying is yes.

17 Now, what else?

18 MS. KEARNEY: I apologize, your Honor.

19 So the government has the same concerns that your
20 Honor outlined at the beginning; that is, that this is a person
21 who, by my count, it's his third arrest for DUI. There's one
22 from 2008. So that's a while ago.

23 THE COURT: I didn't know that.

24 MS. KEARNEY: But this is clearly a problem that has
25 plagued Mr. Cheedie for some time. And, unfortunately, the

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1 consequences of that problem are not personal to him. It is --

2 THE COURT: Are you saying what I've said?

3 MS. KEARNEY: Yes, your Honor.

4 THE COURT: All right.

5 So, if the government is not disagreeing with what
6 Mr. Sosinsky has suggested, and I think is appropriate, I'm
7 happy with that. Is there anything else you wanted to add?

8 MS. KEARNEY: No, your Honor.

9 THE COURT: Okay. Thank you.

10 Again, I don't mean to be harsh here to either of you.
11 I just need to move forward, and we have the Curcio hearing.

12 MS. KEARNEY: No, no, I didn't mean to suggest that
13 you were cutting me off. I was thinking about whether it was
14 worth making an additional statement, and I, myself, decided it
15 was not.

16 THE COURT: All right. Fine.

17 Mr. Cheedie, what do you want to say to me, if
18 anything? You don't have to say anything at all. Anything you
19 say can be used against you. This has nothing to do with the
20 crime with which you're charged; it's an effort to get you on
21 the straight and narrow and to help everybody be protected from
22 you.

23 THE DEFENDANT: I desperately need treatment, and I
24 appreciate it.

25 THE COURT: All right. That's what we're going to do.

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1 In terms of the application by the pretrial services
2 office for bail revocation, I am not going to revoke bail here
3 for Mr. Cheedie. I am going to direct him to report, as soon
4 as a bed is available, to --

5 Mr. Sosinsky, give me the name of that outfit again?

6 MR. SOSINSKY: It is the Geisinger Marworth, M-a-r --

7 THE COURT: Spell Geisinger loudly, slowly, and
8 clearly and the other word.

9 MR. SOSINSKY: Geisinger is spelled G-e-i-s-i-n-g-e-r,
10 Marworth, M-a-r-w-o-r-t-h, Treatment Center located in Waverly,
11 Pennsylvania, your Honor.

12 THE COURT: All right.

13 I'm directing Mr. Cheedie to report to that treatment
14 center in Pennsylvania as soon as a bed is available. And if a
15 bed is not available within the next ten days, his counsel is
16 to notify me in writing.

17 He shall complete an alcohol abuse program there, for
18 a period of at least 30 days, and it may be longer, depending
19 upon the treatment plan recommended by that treatment center.
20 He is directed to successfully complete their program for
21 alcohol abuse.

22 Upon his successful completion, or his earlier
23 discharge from the program for failing to complete the program,
24 I direct him to be -- I'm adding to the conditions of his
25 release -- home detention enforced by location monitoring

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1 technology, to be determined by pretrial services. Mr. Cheedie
2 may self-install the home monitoring unit under the direction
3 and instruction of pretrial services.

4 He is directed to reside with his parents at 2021 57th
5 Street, Brooklyn, New York, and not to relocate from that
6 address without prior approval of pretrial services.

7 After his discharge, whether successful or
8 unsuccessful, from the alcohol abuse treatment program, he must
9 report to pretrial services in the Southern District of New
10 York, to be fitted with the location monitoring device.

11 As I say, all other conditions of his release -- that
12 is, all prior conditions -- remain in effect.

13 Mr. Sosinsky, does that make sense to you?

14 MR. SOSINSKY: It does, your Honor.

15 THE COURT: Government?

16 MS. KEARNEY: Yes, your Honor.

17 THE COURT: All right. That's what I am adding to his
18 conditions of release.

19 Now let's turn to the Curcio hearing.

20 Mr. Cheedie, what's your full name?

21 THE DEFENDANT: Anthony Michael Cheedie.

22 THE COURT: How old are you?

23 THE DEFENDANT: Thirty-five years old.

24 THE COURT: How far did you go in school?

25 THE DEFENDANT: B.A. in business administration from

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1 BU, Boston University.

2 THE COURT: BU, did you say?

3 THE DEFENDANT: Yeah, Boston University.

4 THE COURT: In the past 24 hours, have you taken any
5 pills, drugs, medication of any kind?

6 THE DEFENDANT: No.

7 THE COURT: Are you feeling all right today?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Have you taken any alcoholic beverages in
10 the last 24 hours?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Have you ever been treated or hospitalized
13 for any mental illness?

14 THE DEFENDANT: No, your Honor.

15 THE COURT: Have you ever been treated or hospitalized
16 for alcohol abuse?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: Are you now, or have you recently been,
19 under the care of a doctor or psychiatrist?

20 THE DEFENDANT: No.

21 THE COURT: Is your mind clear?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Mr. Sosinsky, do you have any doubt about
24 Mr. Cheedie's competence to proceed today with this Curcio
25 hearing?

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1 MR. SOSINSKY: No, your Honor.

2 THE COURT: Ms. Kearney?

3 MS. KEARNEY: No, your Honor.

4 THE COURT: All right. I make the finding that he is
5 fully competent to proceed.

6 Now, the purpose of this proceeding, Mr. Cheedie, is
7 to review various scenarios with you and to ask you some
8 questions. The issue has arisen as to whether or not there is
9 a conflict that Mr. Sosinsky has representing you. I don't
10 know that he has a conflict, it's a potential conflict, and I
11 need to make sure that you understand what that potential
12 conflict is because it's going to be up to you to decide
13 whether or not, in light of that potential conflict, you wish
14 to continue with Mr. Sosinsky as your lawyer or whether you
15 want to find a new lawyer. And, indeed, as I go through these
16 questions, I'm going to offer you the ability to speak with
17 another lawyer about this potential conflict, if that's what
18 you want, but that will be up to you. The important thing is
19 that I describe to you what this possible conflict is, and to
20 make sure you understand it, and then to determine whether --
21 for you to determine whether or not you want to go forward with
22 Mr. Sosinsky as your lawyer.

23 Do you understand the purpose of this proceeding?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: All right.

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1 Now, in the United States, an attorney has a
2 responsibility to represent his client or her client to the
3 best of his or her ability. But the obligation of that
4 attorney is 100 percent to that client.

5 Do you understand that?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: That attorney has a duty of loyalty to
8 that client, not to anybody else. Do you understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: There's also a duty of confidentiality
11 that the lawyer has, in other words, anything you tell
12 Mr. Sosinsky, as long as it's done in the context of his
13 representation of you and in the context of your seeking legal
14 advice, is confidential, and he can't tell anyone else about
15 what you've been telling him, and he can't use anything you've
16 been telling him in any way except in your defense.

17 Do you understand that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: So, Mr. Sosinsky has both a duty of
20 loyalty to you, and only you, and a duty of confidentiality
21 that arises out of his representation of you. Do you
22 understand that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Now, it is possible that Mr. Sosinsky may
25 have formed an attorney-client relationship with someone who's

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1 a potential witness in your case. Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: And did you read the letter of
4 Mr. Sosinsky dated June 9, and has he discussed that issue with
5 you and told you who that potential witness is?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: All right.

8 THE DEFENDANT: Thoroughly.

9 THE COURT: Now, if, in fact, Mr. Sosinsky had an
10 attorney-client relationship with the person I'll call the
11 potential witness in your case, he couldn't use anything that
12 would be harmful to that potential witness, because, in this
13 scenario, he was -- the potential witness was a client of
14 Mr. Sosinsky.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: Either way, Mr. Sosinsky has taken the
18 position that he never had an attorney-client relationship with
19 that other witness, that potential witness. Do you understand
20 that?

21 THE DEFENDANT: Yes.

22 THE COURT: So, what the government is talking about
23 is a scenario if, indeed, he did form an attorney-client
24 relationship with that witness. Do you understand that?

25 THE DEFENDANT: Yes, your Honor.

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1 THE COURT: So, if he knows something from that
2 potential witness that would be helpful to you, and if that
3 potential witness was his client, then he couldn't use that in
4 any way to help you, because he's bound to the loyalty duty and
5 confidentiality duty to that other witness.

6 Do you understand?

7 THE DEFENDANT: I understand, your Honor.

8 THE COURT: And that's the essence of the conflict; he
9 couldn't help you, to the extent that he would be obligated to,
10 if he had a conflicting duty of loyalty and confidentiality to
11 the potential witness, not you.

12 Understood?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay.

15 Even if Mr. Sosinsky had ended his attorney-client
16 relationship with that witness -- and, remember, he believes he
17 never formed such a relationship -- he still couldn't use
18 anything that potential witness said to help you.

19 Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Okay.

22 Now, I can't tell you every potential way that that
23 potential conflict could arise, just because I don't know
24 what's going to happen in this case, but it may be that this
25 potential witness has told Mr. Sosinsky something he could use

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1 in questioning some other witness, if he learned it from that
2 potential witness, he couldn't use it, and, therefore, it
3 wouldn't help you.

4 Understood?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: I'm trying to think of things where this
7 might arise. Mr. Sosinsky may want to cross-examine somebody
8 in your defense, but he couldn't use something that other
9 potential witness told him in that cross-examination, even if
10 it would help you and would present a real problem here.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: It may even -- and, again, I'm making
14 things up. It may even be that there might be a witness that
15 Mr. Sosinsky would want to call, but he knows that that, in
16 some way, would hurt you due to information he learned from the
17 potential witness we're talking about. So he couldn't call
18 that other witness.

19 Make sense?

20 THE DEFENDANT: Yes.

21 THE COURT: All right.

22 So I can't foresee all the ways in which that
23 potential conflict may arise that's a part of the issue here.

24 Part of what I have to do, Mr. Cheedie, is to make
25 sure you understand what this potential conflict is. So, would

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1 you tell me, in your own words, what you think I'm blathering
2 on about; that is, what the potential conflict is? I want to
3 make sure you understand.

4 THE DEFENDANT: Okay, your Honor. Beyond obviously
5 speaking to Mr. Sosinsky, I've also been conversing with
6 Mr. Sarikas.

7 THE COURT: Who is also a lawyer?

8 THE DEFENDANT: That's the reason I brought him on as
9 counsel, to eliminate that conflict of interest, if there is
10 any. Also, the slight chance that we do go to trial, and if he
11 needs to be interviewed or cross-examined, the point of having
12 Mr. Sarikas is to solely deal with that potential witness.

13 THE COURT: Oh, I didn't realize that. That certainly
14 helps. That does, indeed.

15 THE DEFENDANT: I've also conversed with Attorney
16 Donald Yannella, who is counsel for me with my situation in New
17 Jersey, and I covered it with him on the basis, as well, of how
18 I would be using a separate attorney to separate, again, the
19 conflict of interest.

20 THE COURT: Mr. Sosinsky, is your co-counsel in your
21 firm or anything like that?

22 MR. SOSINSKY: No, he's independent of my firm. We've
23 known each other as colleagues for quite some time. That's
24 all.

25 THE COURT: All right, fine.

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1 Go ahead, Mr. Cheedie, so what's the potential
2 conflict? And I'm glad you have spoken with other counsel. Go
3 ahead.

4 THE DEFENDANT: Well, I understand the potential
5 conflict is if we were to potentially go to trial, and the
6 witness -- the potential witness was to need to be
7 cross-examined by my counsel, we would actually eliminate
8 Mr. Sosinsky from dealing with that altogether.

9 THE COURT: Why?

10 THE DEFENDANT: Because of the information that --
11 when they had that meeting back in early or mid-2019, any
12 information that was provided to Mr. Sosinsky during that
13 meeting cannot be used in the court of law.

14 THE COURT: All right.

15 Now, you want me to appoint another attorney to
16 discuss this conflict with you? It sounds like you've spoken
17 to people already.

18 THE DEFENDANT: It's not necessary, your Honor.

19 THE COURT: All right. Because I'm prepared to do
20 that if you want.

21 THE DEFENDANT: No, thank you, your Honor.

22 THE COURT: All right.

23 Now, do you also understand that if you do decide that
24 you want Mr. Sosinsky to continue to represent you, you can't,
25 in the future, argue that Mr. Sosinsky did not represent you

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1 adequately because he had this conflict?

2 Do you understand that?

3 THE DEFENDANT: I understand that's the reason we're
4 here, I understand.

5 THE COURT: All right.

6 So, what is your pleasure, sir? Do you want
7 Mr. Sosinsky to continue to represent you in connection with
8 the charges against you in this indictment?

9 THE DEFENDANT: I would love for him to continue to
10 represent me, your Honor.

11 THE COURT: All right. I do make the finding that
12 Mr. Cheedie has knowingly and voluntarily chosen Mr. Sosinsky
13 to serve as his attorney here and that he has waived his right
14 to conflict-free representation.

15 All right. Mr. Cheedie, thank you. You've satisfied
16 me that you're intelligent, you understand this, you're
17 articulate. I don't know why you're getting into trouble with
18 alcohol, but maybe somebody can -- maybe you'll understand that
19 after this treatment. It makes absolutely no sense for alcohol
20 to be erecting barriers in your life professionally. I assume
21 there have been problems personally. It just makes no sense.
22 So, try to get a hold of it. Actually, do more than try to get
23 a hold of that problem, take hold of that problem and conquer
24 it, and you will be a lot better off.

25 Do you understand that?

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1 THE DEFENDANT: Yes, sir. I will, your Honor.

2 THE COURT: In some way, getting your alcohol problems
3 or your ability to -- your willingness to go to alcohol
4 treatment has saved you from my revoking your bail and sending
5 you to jail, but, on the other hand, if you didn't have the
6 alcohol problem, you probably wouldn't be here, in the first
7 place, so get rid of that problem.

8 You understand?

9 THE DEFENDANT: Yes, I will, your Honor.

10 THE COURT: For your sake, and the sake of your case
11 here, and the sake of your future happiness.

12 Anything else that I can do for the government?

13 MS. KEARNEY: No, your Honor. Thank you very much.

14 THE COURT: Anything else I can do for the defense?

15 MR. SOSINSKY: No, your Honor. Thank you very much
16 for having us.

17 THE COURT: And we have another date in this case, as
18 I remember. We had a telephone conference last week.

19 MS. KEARNEY: We do, and I don't know it off the top
20 of my head.

21 THE COURT: I couldn't hear you.

22 MS. KEARNEY: I said we do, and I don't know it off
23 the top of my head.

24 THE COURT: Thank you, all, I appreciate it. And I
25 appreciate all the people in the back coming in support of

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1 Mr. Cheedie, especially in this very difficult time for
2 everyone. Stay safe, everyone.

3 MR. SOSINSKY: Thank you, your Honor.

4 MR. AHMED: Thank you, your Honor.

5 THE COURT: Oh, Mr. Ahmed, thank you for appearing by
6 phone.

7 MR. AHMED: I would like to thank you for allowing me
8 to appear telephonically, and I apologize for any inconvenience
9 that may have caused any of the parties.

10 THE COURT: No inconvenience at all. Stay safe, sir.

11 MR. AHMED: Thank you, sir.

12 * * *